

FINAL

**Statement of
The Secretary of the
United States Department of Transportation
Federico Peña**

**Committee on Merchant Marine and Fisheries
Subcommittee on Coast Guard and Navigation
House of Representatives
March 3, 1994**

TOWING VESSEL NAVIGATIONAL SAFETY

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Good morning Mr. Chairman and members of the Subcommittee.

I am pleased to have the opportunity to appear before you today to discuss the serious problem of towing vessel navigational safety.

Accompanying me is Rear Admiral A. E. Henn, Chief of the Coast Guard's Office of Marine Safety, Security, and Environmental Protection, who will be available to respond to any specific operational questions that the Subcommittee may wish to ask.

Before I begin, I would like to convey to Chairmen Studds and Tauzin, and Congressmen Fields and Coble the appreciation of the Department of Transportation and the Administration for the very serious and thoughtful approach they have taken toward assessing the problem of towing vessel navigational safety in H.R. 3282, the "Towing Vessel Safety Navigational Act of 1993." Similarly, this Subcommittee is to be complimented for its attention to this important issue and for scheduling this hearing to obtain the necessary legislative record.

Today the Subcommittee will hear testimony from a wide range of witnesses on the best way to ensure towing vessel navigational safety. We all share the frustration of the Coast Guard when it is called in to rescue the victims of an accident that might have been prevented if the operator of the vessel had had better navigational equipment aboard or better training.

Clearly, the collapse of the Judge Seeber Bridge in New Orleans and the Amtrak derailment at Bayou Canot, Alabama were great tragedies. The loss of life was staggering. And, I can tell you personally, that seeing the victims, comforting the survivors and meeting the bereaved brings home the human costs of safety lapses. While the oil spill in Puerto Rico, fortunately, did not claim any lives, its environmental and economic effects were widespread. The issues before us are complex. As we take steps to ensure that tragedies such as these are prevented in the future, let us recognize that there are no easy solutions or quick fixes to which we can turn to eliminate the possibility that human error, the largest cause of these problems, equipment malfunction, or adverse environmental conditions, will occur. Let me assure you that my commitment to safety is of the highest level.

On September 30, 1993, I wrote to Congress outlining a series of safety reviews that I initiated in response to the derailment of Amtrak's Sunset Limited. On December 10, 1993, I sent to Congress our final report, entitled "Review of Marine Safety Issues Related to Uninspected Towing Vessels," containing recommendations for changes to the Marine Safety and Waterways Management Programs. A copy of the recommendations is attached to this statement.

That report formed the basis for the four-pronged approach I developed to increase safety in the towing vessel industry. First, more stringent licensing requirements for operators of uninspected towing vessels

must be developed, and these licenses should have levels of qualification. Restrictions for such levels of qualification may be based on route, gross tonnage or horsepower of the towing vessel, and type of towing configuration. The basic three-year apprenticeship should qualify an applicant for a basic license only. Operators must be proficient in the use of navigational and safety equipment. In order to advance beyond a basic license, an operator should be required to attend practical, hands on training or a Coast Guard approved simulator course and pass a written, practical or simulator examination, or some combination thereof. As a complement to this, towing vessel owners must employ qualified, experienced personnel as operators in charge of their vessels.

Second, requirements for radar and upgraded navigational equipment on board uninspected towing vessels must be established. Specifically, operators should be required to have on board as equipment up-to-date marine charts for the area to be transited, current or corrected navigational publications, and a marine radar system for surface navigation. In addition, a compass and depth finder may be necessary tools for safe navigation in certain areas.

Third, notification of accidents must be assured and also assured more promptly. Particularly where barges are concerned and an operator might be in some doubt about whether a tow has been lost or might have struck something, the rule must be--when in doubt, report. To enforce this requirement, the penalty for failure to report immediately must be increased significantly, and I recommend raising the maximum penalty from \$1,000 to \$25,000.

Fourth, aids-to-navigation in the vicinity of bridges must be improved where necessary. I would like to point out that damaging an aid-to-

navigation can result in a criminal penalty of up to \$2,500 and/or imprisonment up to a year, and the individual responsible must also pay to repair or reposition the aid-to navigation. Experience has proven this level of fine to be too low to justify extensive prosecution. Therefore, we should consider increasing the criminal penalty and instituting a civil penalty that can be assessed by the Coast Guard. Anyone who damages an aid-to-navigation must report it to the Coast Guard. Failure to report, particularly when an accident results, can lead to an adjudicative process culminating in severe penalties, up to revocation of the individual's license.

Bridges that have been found to pose an unreasonable obstruction to navigation under the Truman-Hobbs Act must be repaired or replaced. Between 1980 and 1991, 773 tows struck bridges. Nine bridges presently have been declared unreasonable obstructions to navigation under the Truman-Hobbs Act and are either under design or reconstruction. Additionally, there are approximately 52 others that either are being or will be investigated to determine whether they are unreasonable obstructions to navigation according to the Truman-Hobbs criteria. I should note that the President's budget provides for funding to repair the highway bridges from the Highway Trust Fund.

Many details of this four-pronged approach will be developed during the regulatory process. Where the Department could implement some of these proposals without a rulemaking or legislation, action is already underway. The curriculum of the maritime radar courses is under review to determine if the current courses are adequate for specialized operations on some waterways, particularly western rivers. The review will also determine if the existing courses reflect state-of-the-art radar technology and operational procedures. The Commander of the Eighth Coast Guard District

in New Orleans has established a Coast Guard-industry team to identify all waterways, including Bayou Canot, where new or additional aids-to-navigation may be needed. Similarly, a review of all bridges crossing navigable waters is underway.

Additionally, there are certain issues that should be studied. Specifically, we should examine the adequacy and effectiveness of our manning and inspection requirements and look at whether the laws for all other commercial vessels on inspection and manning should apply to the inland-waterway towing industry. Traditionally, it was felt that, because of differing operating conditions, mandatory manning levels were not necessary and the cost of industry-wide Coast Guard inspection would be too high for any expected benefits. However, I am not satisfied with traditional approaches. Voluntary industry standards may be an appropriate approach to raising safety performance, but we should also examine whether governmental requirements are necessary.

Statutory and regulatory provisions currently dictate the manning level of the navigation watch aboard a towing vessel. Both the work-hour limitations and the navigation watch provisions affect the manning complement on an uninspected towing vessel. Clearly, all inland towing vessels should have someone aboard who is knowledgeable in the operation and maintenance of the engineering systems and an operator competent to pilot the vessel through the waters in which it is traveling. The larger question of whether masters, mates, engineers or pilots should be required is more difficult to answer. The industry is diverse and many towing companies are small. The Coast Guard has embarked on a major research project to develop an analytical, function-based model for rationalizing our approach to determining the minimum crew complement required for safe

operation of a vessel. The model will include workhour limits, hours of operation, and potential emergency situations as essential factors. Once completed, it will give us an accurate picture of how we should approach manning levels in the future.

Safe transportation is my priority. I believe we should move now to bring the enhanced licensing and equipment requirements into force, and take a careful look at whether we need to do more in the areas of manning and inspections. The loss of life in the Judge Seeber Bridge collapse and the Amtrak derailment was devastating, but every day property is damaged and cargo lost in minor towing accidents. My recommendations will not only save lives, but make the shipment of goods by inland barge more reliable. The inland barge system is an extremely efficient and economical transportation method for many shippers. It is our job to make sure it is as safe as possible, for all.

Technology has an extremely important role to play in towing vessel safety. The Global Satellite Positioning System, developed by the Department of Defense, and the augmentation of Differential Global Positioning System (DGPS), being developed for civil use by DOT agencies, will provide increased accuracy, productivity, safety and efficiency in sea navigation by providing marine navigators with the first precise, worldwide, continuous positioning and timing service. As a result, commercial shipping will be safer, more efficient, reliable and economical. Augmented with DGPS, and combined with the developing Electronic Chart Display and Information System, it will significantly improve waterway and harbor safety. The pronounced safety benefits of these systems will be a major improvement in avoiding collisions and groundings, and the resulting human and environmental losses such events cause. I am very excited about the

possibilities of this new technology and therefore I support the recommended study in H.R. 3282.

Even if we employ the latest technology for preventing accidents and improving survivability if one occurs, we must acknowledge that most accidents in all modes of transportation are caused by human error. Very few accidents are caused by equipment or structural failure; most are the result of poor judgment or performance by the operator of the equipment. A review of marine casualties for the period 1980 through 1991, involving towing vessels of fewer than 300 gross tons, shows that approximately 60% of the marine casualties were attributable to human error. Since the performance of the operator of the vessel is crucial in emergencies, we must ensure that the operator is well-trained, proficient in navigation, and alert. At the Department of Transportation, we have taken significant steps to reduce operator error. Mariners are already subject to the Department's rigid drug testing requirements and the Coast Guard's effective alcohol testing program. Under a proposal I discussed earlier, operators would be subject to licensing requirements, that would ensure proper training and proficiency with navigational and safety equipment.

I thank you for this opportunity to share my views on how we can increase safety in the vessel towing industry. Rather than offer legislation on behalf of the Administration, I would like to work with you and this Subcommittee to forge an overall approach that can be enacted and signed into law before September 22, 1994, the first anniversary of the tragic Bayou Canot accident.

Admiral Henn and I would now be happy to answer your questions.